



RAILROAD COMMISSION OF TEXAS

TEXAS RADIATION ADVISORY BOARD

Program Report for the Railroad Commission of Texas December 2016

The Railroad Commission of Texas (RRC) staff continues to work with the Texas Department of State Health Services (DSHS) and the Texas Commission on Environmental Quality (TCEQ) relating to jurisdiction, legislation, general licenses, permits and exemptions for the disposal and related handling of Naturally Occurring Radioactive Material (NORM) and Technologically Enhanced Naturally Occurring Radioactive Material (TENORM) on a case by case basis.

Permitting:

Lotus, LLC:

Lotus (Andrews Facility) is authorized for NORM disposal (Permit #s P010928, P010938, 11239, 11240, 12406, 10799) to collect, process, and dispose of: *“Non-hazardous oil and gas waste, including oil and gas NORM waste”*. Records are required to be kept of each load of waste received and a quarterly report is required to be filed with the RRC. Neither the permits nor the reporting criteria require or restrict the acceptance of offshore (outside US waters) or foreign oil & gas waste.

The definition of Oil field wastes, as defined by Texas Administrative Code (TAC) 16, Part 1 Chapter §3.8 does not distinguish or discriminate for or against where the waste was generated (country or controlled waters). It defines the waste as those activities generated in connection with the exploration, development, and production of oil or gas or geothermal resources.

The EPA does not regulate the waste and is not opposed, as per regulatory authority, to import or export of such waste. (See Attached EPA letter).

Lotus has also inquired about the possibility of NORM surface disposal (interment within a disposal cell). 16 TAC Chapter 4 Subchapter F, RULE §4.620(b) states:

(b) “Standards for permit issuance. The Commission shall issue a permit to dispose of oil and gas NORM waste under §3.8 of this title only if the Commission determines that the subject oil and gas NORM waste will be disposed of in a manner that protects public health, safety, and the environment. Any permit to dispose of oil and gas NORM waste issued pursuant to §3.8 of this title shall contain construction and operating requirements that are reasonably necessary to

protect public health, safety, and the environment. In addition, the Commission shall issue a permit for burial of oil and gas NORM waste only if, prior to burial, the oil and gas NORM waste has been treated or processed so that the radioactivity concentration does not exceed 30 pCi/g Radium-226 combined with Radium-228 or 150 pCi/g of any other NORM radionuclide. The Commission shall issue a permit to dispose of oil and gas NORM waste by applying it to and mixing it with the land surface only if, after such application and mixing, the radioactivity concentration in the area where the oil and gas NORM waste was applied and mixed will not exceed 30 pCi/g Radium-226 combined with Radium-228 or 150 pCi/g of any other NORM radionuclide.”

In addition, RULE §4.623 states:

“The Commission may approve alternatives to the provisions of §4.617 and §4.620 of this title (relating to Permit for Injection, and Permit for Surface Disposal) for good cause if the applicant demonstrates to the Commission's satisfaction that the alternatives will protect public health, safety, and the environment. An operator requesting to use an alternative method shall submit the request in writing. The Commission shall review the request within 30 days and shall approve or deny the request in writing.”

It is the intent of LOTUS to petition the surface disposal conditions defined under §4.620 with an alternative provision as allowed under §4.623 so that the radioactivity concentration of 30 pCi/g Radium-226 combined with Radium-228 or 150 pCi/g of any other NORM radionuclide may be exceeded if acceptable protective measures are in place.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

November 7, 2016

Dear Delegated Environmental Authority:

This document serves as the United States Environmental Protection Agency's (USEPA) response to an email request received from Lotus LLC, 818 E. Broadway, Andrews, TX (Lotus), dated October 12, 2016. The email references proposed exports of non-hazardous oilfield waste (NOW) containing diffuse Ra-226/228 and/or Pb-210 destined for disposal at the Lotus facility.

Based solely on the information provided by Lotus, the waste described as NOW is exempted from federal hazardous waste regulations, including hazardous waste import regulations, under the exemption for wastes associated with the exploration, development, or production of crude oil, natural gas or geothermal energy found in 40 CFR 261.4(b)(5) of the U.S. hazardous and solid waste regulations implementing the Resource Conservation and Recovery Act (RCRA). As such, the NOW may be imported to the United States without a hazardous waste notification. However, this waste is subject to all other applicable federal and state laws and regulations for transportation and management once it arrives in the United States.

This document will no longer be valid if any of the information upon which USEPA relied to issue this letter is incorrect, incomplete or fraudulent. It is the responsibility of the U.S. importer to accurately determine the regulatory status of the waste to be imported under RCRA.

Sincerely,

A handwritten signature in black ink, reading "Eva H. Kreisler", is positioned below the "Sincerely," text.

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